

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Fernando Gamboa Howard,
5 Petitioner
6 v.
7 Rex Tillerson, et al.,
8 Respondents
9

2:17-cv-01977-JAD-GWF
Order Directing Response

10 Counseled petitioner Fernando Gamboa Howard brings this petition for a writ of habeas
11 corpus under 28 U.S.C. § 2241 and challenges his extradition to Mexico by the United States of
12 America. The filing fee has been paid, and it appears that Howard has named an appropriate
13 respondent or respondents for this type of proceeding.¹ It also appears that he has served the
14 petition on the appropriate officers under Fed. R. Civ. P. 4(i)(2),² and counsel for the respondents
15 have entered an appearance.


16 Accordingly, IT IS HEREBY ORDERED under 28 U.S.C. § 2243 that respondents have
17 until December 18, 2017, to answer or otherwise respond to the petition and show cause why
18 relief should not be granted.
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21 ¹ See *Rumsfeld v. Padilla*, 542 U.S. 426 (2004); see also *Armentero v. INS*, 340 F.3d 1058, 1071
22 (9th Cir. 2003), *opinion withdrawn on grant of en banc rehearing*, 382 F.3d 1153 (9th Cir.
23 2004), *appeal dismissed per fugitive disentitlement doctrine*, 412 F.3d 1088 (9th Cir. 2005). The
24 administrator of the Nevada Southern Detention Center, Janice Killian, conceivably also could
25 have been named as petitioner's most immediate custodian. But the July 3, 2017, order (ECF
26 No. 94) in case no. 2:15-mj-627-NJK committed petitioner "to the custody of the United States
27 Marshal," who is named as a respondent in this case. Particularly given the prior order, I find
that naming the Marshal as the immediate custodian sufficiently complies with the immediate
custodian rule. Any custody by Ms. Killian is derivative of the Marshal's otherwise immediate
custody, and any court order to produce the petitioner from his custody within this district would
be directed to the Marshal following upon the prior July 3, 2017, order.

28 ² See ECF No. 1 at 21.

1 IT IS FURTHER ORDERED that Gamboa Howard may file a reply no later than 14 days
2 after respondents serve their response.

3 DATED: December 13, 2017.

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5 U.S. District Judge Jennifer A. Dorsey
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